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1946

File No. Cotton Transport II/46

Legal Department—
B BRANCH

Subject:— Rules and Notifications under the Cotton Transport Act, 1923

File No. Cotton-Transport-II/46.

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Office of the R.L.A.

In order to maintain the quality and reputation of the cotton grown in certain areas in the Province of Bombay the Gover...nt of Bombay issued a notification on 18x.4.1941 under section 3 of the Cotton Transport Act, 1923, prohibiting the import of cotton into the Protected Areas specified in Schedule I to that notification save under a license and also prohibiting the delivery to, and the taking of delivery by, any person, at any of the railway stations situated in the ~~xxxxxx~~Protected Areas and specified in Schdeule II appended to the notification, of any cotton when such cotton has been consigned from a railway station not situated in the Protected Areas, unless such person held a license for the import by railw of cotton into the Protected Areas. The notification issued by the Government of Bombay in 1941 was amended in 1944. The amendment provided that the prohibition regarding delivery of cotton at any of the railway stations in the Protected Area shall not apply to cotton consiged from any one of the railway stations situtated within the territotires of the Baroda State and specified in Schdeule II addd to the notification. Schedule III contained certain railway stations within the Baroda State. In 1945 at the instance of the Resident at Baroda certain stations on the Ahmedsbad Prantij Section situated in the Baroda State, namely, Nandol Dehgam, Dabhoda and Rakhial were included in Schedule III to the notification issued by the Government of Bombay in 1941. In this letter at p. 31 ante the Resident at Baroda objects to the inclusion by the Bombay Government in Schedule III of its Notification of the two railway stations of Rakhial and Dahoda on the ground that theyx are within the jurisdiction of the Crown Representative and as such the Bombay Government has no power to legislate with respect to them. In his ppinion

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the notifkeation of the Gèvernment of Bombay in so far as it includes these two railway stations ia ultra vires.

2. The giew taken by the Resident at Baroda is not correct. It is true that the two railway stations of Rakhikal and Dabhoda are within the jurisdiction of the Crown Representative (see C.R.'s notification No.290 I&B, dated 10-9-1941) and the Provincial Governmen has no power to legislate with respect to those stations. Ho ever by including the two stations in Schedube III to its notification No.1133/39, dated 18-4-1941 the Government of Bombay didk not purposrt to legislate with respect to theml Under the notification as it stood prior to its amendment in 1945 a person could not take delivery at any of the railway stations situkated in the Protected Areas and specified in Schdeule II afto the Notification of cotton consigned from either of those two railway station unless he hald a license for its import into the Protected Areas. By the inclusion in 1945 of the two rilway stations in Schedule III a person taking delivery in the Protected Areas. By the inclusion in 1945 of the two railway stations in Schdeule III a persn taking delivery inthe Protected Areas of cotton consigeded from eithe of the two railway stations has been exempted from the requirement of taking out a licensè. Thisk does not amount to legislating in respect of areas over which the Crown Representative has jurisdction, the action of the Bombay Government in including the two railway stations in Schdeule III to its Notification of 1941 is not therefore illegal. The question whether the two railway sttions should continue to remain in Schedule III is a question of policy for Government, to decide.

Id/- P.N.M. 26/6/46.
Remembrancer of Legal Affairs.

U.R. to R.C.D.,No.4658,

dated the 28th June 1946.

JPK.12/7/56.4c.